

Even if a candidate feels that he has excelled in an interview, he does not know how the appointee performed in the said interview. Markings are then quite revealing and can show why the Respondent chose one and not the other. Unless there is a serious flaw the Tribunal will not interfere with the findings.

The Appellant is appealing against the decision of the Respondent to appoint the Co Respondent to the post of FEN in the Municipal Council of ...

Appellant's Case

The grounds of appeal which have been reproduced in his statement of case are as follows:

1. That I am a better qualified candidate than Mr...for the post ...and that I should have been appointed instead;
2. That I am more experienced than Mr ... for the post of ... for having acted as FEN on several occasions in the past;
3. That I have excelled during the interview process and have a proven track record;
4. That my longer years than Mr ... in the service should have tilt towards my appointment;
5. That the decision not to appoint me and to instead appoint ... is irrational and unreasonable. (SIC)

The Appellant conceded in cross examination that he is not aware of the qualification or about the performance of Co-Respondent during the interview. However he laid emphasis on the fact that he had done assignments as FEN for longer periods than the Co-Respondent.

Respondent's Case

In reply to Appellant's grounds of appeal and statement of case, Respondent reiterated a plea in limine that had been previously set aside by the Tribunal. On the

day of hearing scheduled for ..., Counsel for Respondent did not insist on the *plea in limine* and the matter was heard on the merits.

Respondent averred that as per the Scheme of Service for the post of FEN, appointment was made by selection from among TDN and GDN possessing

1. The Certificate of Primary Education
2. At least a Trade Test Certificate
3. Appropriate skills to lead and supervise workers performing different kind of trade
4. Having at least 8 years' service as TDN/GDN

Respondent also averred that both Appellant and Co-Respondent were fully qualified as per the Scheme of Service and that 7 candidates, including the Appellant and the Co-Respondent, were called for interview. However Respondent admitted that the Appellant was assigned duties of FEN for a longer period than the Co-Respondent. But the Respondent, under cross examination, confirmed that assignment of duties would not give rise to a claim for permanent appointment.

Co-Respondent's Stand

The Co-Respondent stated that he was to come with a representative from a Trade Union. But unfortunately nobody came and they told him that they would come next time. He was explained that he had been informed that the Hearing would be held "today" and that the case was closed.

Determination

In order for the Tribunal to deliver a fair and reasonable determination, the Tribunal found it fit to request Respondent to provide it with the criteria upon which each candidate was assessed and the relevant markings obtained by each of them. Same was provided under confidential cover and was duly analysed by the Tribunal. The Tribunal noted that the criteria adopted by Respondent were as follows:

1. Qualifications
2. Personality

3. Sense of discipline/attitude
4. Communication, supervisory & leadership skills in different kind of trade
5. Knowledge of the job

The Tribunal observed that both Appellant and Co-Respondent obtained the same number of marks under criterion “qualifications” but Co Respondent scored more marks than Appellant on the other criteria. It is true that Knowledge of the Job is gained by performing the job and that the Tribunal has laid much emphasis on this particular aspect in several Determinations in the past. Thus the Tribunal has paid due diligence to markings received under criterion “Knowledge of the Job” for both the Appellant and the Co-Respondent while taking into account that Appellant has been assigned duties of FEN for longer periods than the Co-Respondent. However, even if Appellant was given full marks on the criterion “Knowledge of the Job”, the Co-Respondent would have obtained more marks overall than Appellant. In these circumstances, the Tribunal cannot interfere in the appointment of Co-Respondent to the post.

Therefore, the Tribunal sets aside the present appeal.